

REMARKS

Claims 1 to 65 are pending in this application and are subject to restriction under 35 U.S.C. § 121, as follows:

Group	Claims	Subject Matter	Class/Subclass
I	Claims 1 to 47	Drawn to compounds of formula Ia, IIa, IIc, and III and compositions thereof	546/208, 276.4
II	Claims 1 to 47	Drawn to compounds of formula Ib, IIb, IIId, and IV and compositions thereof	564/157, 163
III	Claim 48 to 65	Drawn to a method using compounds of formula Ia, IIa, IIc, and III	514/326, 343, 370, 424, 428
IV	Claim 48 to 65	Drawn to a method using compounds of formula Ib, IIb, IIId, and IV	514/616, 619

It is asserted that the inventions of Groups I to IV are distinct. A requirement has also been made for an election of a single compound in any group elected.

According to MPEP § 803, there are two criteria for a proper requirement for restriction between patentably distinct inventions:

- (A) The inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05-§ 806.05(i)); and
- (B) There must be a serious burden on the examiner if restriction is required (see MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02).

For purposes of the initial requirement, a serious burden may be *prima facie* shown if the examiner shows separate classification, separate status in the art, or a different field of search as defined in MPEP § 808.02. In the subject application, the claims have been restricted into three different groups. Thus, applicants respectfully submit that a *prima facie* case of serious burden has not been established for more than three groups.

Thus, applicants respectfully request reconsideration of the requirement for restriction, and in particular an indication that the requirement is only a provisional election

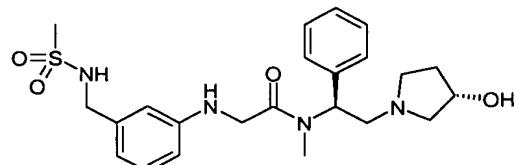
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for the purpose of carrying out the search. Nonetheless, to be fully responsive to the restriction requirement, applicants elect *with traverse* to prosecute the claims of **Group I**.

Further, applicants elect *with traverse* the compound 10:

N-{2-[(S)-3-Hydroxy-pyrrolidin-1-yl]- (S)-1-phenyl-ethyl}-2-[3-(methanesulfonylamino-methyl)- phenylamino]-N-methyl-acetamide



This compound is readable on claims 1 to 47 and method claims 48 to 65.

Applicants request reconsideration and rejoinder of the method claims of Group III with the compound/composition claims of Group I, since the compounds useful in the method claims of Group III are commensurate in scope with the compounds set forth in the claims of Group I and logically any search of the compounds of Group I would reveal all of the relevant art with respect to Group III as well..

Applicants are herein amending claims 1, 28, 29, and 43 to delete the non-elected subject matter. Applicants explicitly reserve the right to file one or more divisional applications directed to the non-elected subject matter.

If the Examiner wishes to discuss the merits of the application, the Examiner is requested to contact the undersigned attorney at (404) 459-5642.

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